

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | | |
| |) | | |
| Telecommunications Relay Services |) |) | CG Docket 03-123 |
| And Speech-to-Speech Services for |) | | |
| Individuals with Hearing and Speech | |) | |
| Disabilities |) | | |

SUPPLEMENT TO APPLICATION FOR REVIEW

Hands On Video Relay Services, Inc. (“HOVRS”), pursuant to staff request, supplements its July 20, 2004 Application for Review (“Application”) of the Consumer and Governmental Affairs Bureau’s (“CGB”), *Order*, DA 04-1999 (June 30, 2004) (“Rate Order”), which set the payment rate for video relay service (“VRS”) at \$7.293, in light of CGB’s December 30, 2004, *Order* DA 04-4063, which raised the VRS payment rate to \$7.593. In support, the following is shown:

HOVRS’s Application sought review of CGB’s Rate Order on several grounds. Included among the grounds on which review was sought were various adjustments NECA had stated it made to HOVRS’s cost estimates. *See* Application at 26-35. As HOVRS demonstrated therein, the individual adjustments NECA admitted making in HOVRS’s cost estimates were arbitrary, capricious and without justification.

In response to the *Rate Order*’s indication that providers would have the opportunity to meet with CGB to discuss the cost exclusions, HOVRS met with CGB and submitted supplemental data in response to CGB’s stated concerns with respect to its cost data. Further, following the issuance of the December 30, 2004 *Order*, HOVRS was informed by CGB staff of the disputed HOVRS cost items that were reinstated in the VRS rate.

Based solely on these off the record discussions with CGB staff, HOVRS is prepared to withdraw certain of its objections to the *Rate Order*. HOVRS emphasizes, however, that it does not consider these off-the-record discussions to comport with either constitutional or statutory due process, including the provisions of the Administrative Procedures Act. In HOVRS's view, fundamental fairness requires that all elements of the rate for VRS or for other forms of Telecommunications Relay Service must be based on public record submissions and on decisions which address contested issues on the public record. Although HOVRS understands that CGB is handling this matter in this manner because it believes it must maintain the confidentiality of provider submissions, in HOVRS's view, that rationale is contrary to the APA, and invites error and misunderstanding.

For example, it was not until its meeting with CGB that HOVRS understood that NECA has apparently excluded certain of its customer care representatives and other call center staff from the VRS rate. NECA claimed in writing to HOVRS and the Bureau stated in its *Rate Order* that provider expenses reported under Items A and B (call center expenses) of the NECA data collection form were not cut. Notwithstanding those representations, when HOVRS met with CGB staff, it was informed that certain personnel reported under Line B-6 had been excluded. This is the type of error that results when decisions are made based on a non-public record, and where orders announce a result without explanation or justification. Rather than a secretive off-the-record process, the process should be transparent for the public, providers and consumers.

Based upon CGB's advice that it has restored certain formerly excluded costs and subject to the foregoing reservation concerning the process, HOVRS withdraws its objections concerning its accounting staff, corporate overhead, operations, software licensing, general and administrative

personnel (B-6). HOVRS continues to object to the deletion of installation personnel for the reasons stated both of record and in off-the-record submissions and discussions.

With respect to all other objections stated in the Application for Review, HOVRS stands by those positions. In the interest of brevity, and as requested by the staff, HOVRS will not reiterate those positions.

Respectfully submitted,

HANDS ON VIDEO RELAY SERVICES, INC.

By /s/
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